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S. C. Johnson & Son, Inc.
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
11

12 SAN FRANCISCO TECHNOLOGY INC.,

13 Plaintiff,

14 v.

15 ADOBE SYSTEMS INCORPORATED,
THE BRITA PRODUCTS COMPANY,
16 DELTA FAUCET COMPANY, EVANS
MANUFACTURING INC., THE
17 EVERCARE COMPANY, GRAPHIC
PACKAGING INTERNATIONAL INC.,
18 MAGNUM RESEARCH INC.,
PAVESTONE COMPANY LP, THE
19 PROCTOR & GAMBLE COMPANY, S.
C. JOHNSON & SON INC., SPECTRUM
20 BRANDS INC., SUPER SWIM CORP.,
UNILOCK INC., WEST COAST CHAIN
21 MFG. CO.,

22 Defendants.
23

Case No. C09 06083 RS

ANSWER OF S. C. JOHNSON & SON, INC.
TO COMPLAINT

DEMAND FOR A JURY TRIAL

24 Defendant, S. C. Johnson & Son, Inc. ("S. C. Johnson"), by its attorneys, for its Answer to
25 the Complaint of the plaintiff, San Francisco Technology Inc., states:
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27
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ANSWERNATURE OF ACTION

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3 1. S. C. Johnson admits that the Complaint alleges a *qui tam* action for false marking
4 under 35 U.S.C. § 292. S. C. Johnson denies each and every remaining allegation made against it
5 in Paragraph 1. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
6 not responsively plead to allegations directed solely at the other defendants in this case. To the
7 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
8 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

PARTIES

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10 2. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson has
11 no knowledge or information sufficient to form a belief as to the truth of the allegations of
12 Paragraph 2, and on that basis denies them.

13 3. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
14 not responsively plead to allegations directed solely at the other defendants in this case. To the
15 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
16 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

17 4. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
18 not responsively plead to allegations directed solely at the other defendants in this case. To the
19 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
20 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

21 5. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
22 not responsively plead to allegations directed solely at the other defendants in this case. To the
23 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
24 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

25 6. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
26 not responsively plead to allegations directed solely at the other defendants in this case. To the
27 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
28 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

1 7. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
2 not responsively plead to allegations directed solely at the other defendants in this case. To the
3 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
4 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

5 8. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
6 not responsively plead to allegations directed solely at the other defendants in this case. To the
7 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
8 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

9 9. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
10 not responsively plead to allegations directed solely at the other defendants in this case. To the
11 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
12 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

13 10. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
14 not responsively plead to allegations directed solely at the other defendants in this case. To the
15 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
16 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

17 11. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
18 not responsively plead to allegations directed solely at the other defendants in this case. To the
19 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
20 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

21 12. S. C. Johnson admits the allegations of Paragraph 12.

22 13. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
23 not responsively plead to allegations directed solely at the other defendants in this case. To the
24 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
25 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

26 14. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
27 not responsively plead to allegations directed solely at the other defendants in this case. To the
28

1 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
2 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

3 15. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
4 not responsively plead to allegations directed solely at the other defendants in this case. To the
5 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
6 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

7 16. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
8 not responsively plead to allegations directed solely at the other defendants in this case. To the
9 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
10 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

11 JURISDICTION & VENUE

12 17. S. C. Johnson admits the allegations of Paragraph 17.

13 18. S. C. Johnson admits the allegations of Paragraph 18.

14 19. S. C. Johnson admits that this court has personal jurisdiction over S. C. Johnson.
15 S. C. Johnson has no knowledge or information sufficient to form a belief as to the truth of the
16 allegations as to any other defendant and therefore denies same. S. C. Johnson denies all other
17 allegations of Paragraph 19.

18 20. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
19 not responsively plead to allegations directed solely at the other defendants in this case. To the
20 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
21 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

22 21. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
23 not responsively plead to allegations directed solely at the other defendants in this case. To the
24 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
25 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

26 22. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
27 not responsively plead to allegations directed solely at the other defendants in this case. To the
28

1 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
2 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

3 23. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
4 not responsively plead to allegations directed solely at the other defendants in this case. To the
5 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
6 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

7 24. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
8 not responsively plead to allegations directed solely at the other defendants in this case. To the
9 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
10 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

11 25. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
12 not responsively plead to allegations directed solely at the other defendants in this case. To the
13 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
14 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

15 26. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
16 not responsively plead to allegations directed solely at the other defendants in this case. To the
17 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
18 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

19 27. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
20 not responsively plead to allegations directed solely at the other defendants in this case. To the
21 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
22 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

23 28. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
24 not responsively plead to allegations directed solely at the other defendants in this case. To the
25 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
26 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

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1 29. S. C. Johnson admits that it has sold the products identified in Paragraphs 102 and
2 104 of the Complaint in California. As to each and every remaining allegation against S. C.
3 Johnson in Paragraph 29, denied.

4 30. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
5 not responsively plead to allegations directed solely at the other defendants in this case. To the
6 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
7 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

8 31. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
9 not responsively plead to allegations directed solely at the other defendants in this case. To the
10 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
11 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

12 32. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
13 not responsively plead to allegations directed solely at the other defendants in this case. To the
14 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
15 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

16 33. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C. Johnson need
17 not responsively plead to allegations directed solely at the other defendants in this case. To the
18 extent a response may be required, S. C. Johnson has no knowledge or information sufficient to
19 form a belief as to the truth of the allegations as to any other defendant and therefore denies same.

20 INTRADISTRICT ASSIGNMENT

21 34. S. C. Johnson denies that a substantial portion of the events underlying this case
22 occurred in Santa Clara County. S. C. Johnson has no knowledge or information sufficient to
23 form a belief as to the truth of the allegations of the second sentence of Paragraph 34. The
24 remainder of Paragraph 34 consists of legal conclusions to which no answer is required. To the
25 extent an answer is required, S. C. Johnson denies the remaining allegations of Paragraph 34.

26 COUNT 1: ADOBE'S FALSE MARKING

27 Paragraphs 35-49. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C.
28 Johnson need not responsively plead to allegations directed solely at the other defendants in this

1 case. To the extent a response may be required, S. C. Johnson has no knowledge or information
2 sufficient to form a belief as to the truth of the allegations as to any other defendant and therefore
3 denies same.

4 COUNT 2: BRITA'S FALSE MARKING

5 Paragraphs 50-54. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C.
6 Johnson need not responsively plead to allegations directed solely at the other defendants in this
7 case. To the extent a response may be required, S. C. Johnson has no knowledge or information
8 sufficient to form a belief as to the truth of the allegations as to any other defendant and therefore
9 denies same.

10 COUNT 3: DELTA'S FALSE MARKING

11 Paragraphs 55-60. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C.
12 Johnson need not responsively plead to allegations directed solely at the other defendants in this
13 case. To the extent a response may be required, S. C. Johnson has no knowledge or information
14 sufficient to form a belief as to the truth of the allegations as to any other defendant and therefore
15 denies same.

16 COUNT 4: EVANS' FALSE MARKING

17 Paragraphs 61-68. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C.
18 Johnson need not responsively plead to allegations directed solely at the other defendants in this
19 case. To the extent a response may be required, S. C. Johnson has no knowledge or information
20 sufficient to form a belief as to the truth of the allegations as to any other defendant and therefore
21 denies same.

22 COUNT 5: EVERCARE'S FALSE MARKING

23 Paragraphs 69-72. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C.
24 Johnson need not responsively plead to allegations directed solely at the other defendants in this
25 case. To the extent a response may be required, S. C. Johnson has no knowledge or information
26 sufficient to form a belief as to the truth of the allegations as to any other defendant and therefore
27 denies same.
28

1 COUNT 6: GRAPHIC PACKAGING'S FALSE MARKING

2 Paragraphs 73-77. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C.
3 Johnson need not responsively plead to allegations directed solely at the other defendants in this
4 case. To the extent a response may be required, S. C. Johnson has no knowledge or information
5 sufficient to form a belief as to the truth of the allegations as to any other defendant and therefore
6 denies same.

7 COUNT 7: MAGNUM'S FALSE MARKING

8 Paragraphs 78-82. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C.
9 Johnson need not responsively plead to allegations directed solely at the other defendants in this
10 case. To the extent a response may be required, S. C. Johnson has no knowledge or information
11 sufficient to form a belief as to the truth of the allegations as to any other defendant and therefore
12 denies same.

13 COUNT 8: PAVESTONE'S FALSE MARKING

14 Paragraphs 83-88. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C.
15 Johnson need not responsively plead to allegations directed solely at the other defendants in this
16 case. To the extent a response may be required, S. C. Johnson has no knowledge or information
17 sufficient to form a belief as to the truth of the allegations as to any other defendant and therefore
18 denies same.

19 COUNT 9: PROCTER & GAMBLE'S FALSE MARKING

20 Paragraphs 89-99. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C.
21 Johnson need not responsively plead to allegations directed solely at the other defendants in this
22 case. To the extent a response may be required, S. C. Johnson has no knowledge or information
23 sufficient to form a belief as to the truth of the allegations as to any other defendant and therefore
24 denies same.

25 COUNT 10: S. C. JOHNSON'S FALSE MARKING

26 100. S. C. Johnson incorporates by reference its answers to all above allegations.

27 101. S. C. Johnson admits that it makes and sells many kinds of products, including
28 Ziploc® bags. S. C. Johnson states that it has made and sold shaving products such as Edge®

1 shaving gel and Skintimate® shaving cream, but that it no longer makes or sells such products to
2 retail customers. S. C. Johnson denies all remaining allegations of Paragraph 101.

3 102. S. C. Johnson admits that labels affixed to some canisters of Edge® shaving gel
4 have been marked with “U.S. Patent Nos. D379,433; 4,703,875; and 5,858,343.” S. C. Johnson
5 admits that labels affixed to some canisters of Skintimate® shaving cream have been marked with
6 “U.S. Patent Nos. D379,433; 4,703,875; and 5,858,343.” S. C. Johnson admits that canisters of
7 Edge® shaving gel and Skintimate® shaving cream that were marked in this manner were sold in
8 retail stores in 2009. S. C. Johnson admits that U.S. Patent No. 4,703,875 expired no later than
9 July 25, 2006. S. C. Johnson denies all remaining allegations of Paragraph 102.

10 103. S. C. Johnson admits that the labels affixed to at least some varieties of Edge®
11 shaving gel and Skintimate® shaving cream have also been marked “© 2007 S. C. Johnson &
12 Son, Inc.” S. C. Johnson denies all remaining allegations of Paragraph 103.

13 104. S. C. Johnson admits that Ziploc® bags are sold in various sizes, in boxes
14 containing various quantities of bags. S. C. Johnson admits that U.S. Patent No. 5,009,828
15 expired no later than April 24, 2008. S. C. Johnson admits that some Ziploc® bags have been
16 marked with U.S. Patent No. 5,009,828, including in 2009. S. C. Johnson denies all remaining
17 allegations of Paragraph 104.

18 105. S. C. Johnson denies each and every allegation of Paragraph 105.

19 COUNT 11: SPECTRUM’S FALSE MARKING

20 Paragraphs 106-111. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C.
21 Johnson need not responsively plead to allegations directed solely at the other defendants in this
22 case. To the extent a response may be required, S. C. Johnson has no knowledge or information
23 sufficient to form a belief as to the truth of the allegations as to any other defendant and therefore
24 denies same.

25 COUNT 12: SUPER SWIM’S FALSE MARKING

26 Paragraphs 112-116. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C.
27 Johnson need not responsively plead to allegations directed solely at the other defendants in this
28 case. To the extent a response may be required, S. C. Johnson has no knowledge or information

1 sufficient to form a belief as to the truth of the allegations as to any other defendant and therefore
2 denies same.

3 COUNT 13: UNILOCK'S FALSE MARKING

4 Paragraphs 117-122. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C.
5 Johnson need not responsively plead to allegations directed solely at the other defendants in this
6 case. To the extent a response may be required, S. C. Johnson has no knowledge or information
7 sufficient to form a belief as to the truth of the allegations as to any other defendant and therefore
8 denies same.

9 COUNT 14: WEST COAST CHAIN'S FALSE MARKING

10 Paragraphs 123-129. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, S. C.
11 Johnson need not responsively plead to allegations directed solely at the other defendants in this
12 case. To the extent a response may be required, S. C. Johnson has no knowledge or information
13 sufficient to form a belief as to the truth of the allegations as to any other defendant and therefore
14 denies same.

15
16 **RELIEF**

17 Wherefore defendant S. C. Johnson denies that the plaintiff is entitled to judgment and
18 requests that the Court:

- 19 A. Enter judgment on Count 10 in favor of S. C. Johnson and against the plaintiff;
20 B. Declare that this case is exceptional and award S. C. Johnson its attorneys' fees
21 and costs; and
22 C. Grant such other and further relief to which S. C. Johnson may be entitled.

23 **JURY DEMAND**

24 S. C. Johnson requests a trial by jury on all issues triable by jury.
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1 DATED: January 28, 2010

PERKINS COIE LLP

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3 By: s/ Christopher Kao
4 Christopher Kao, SB # 237716
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5 Attorneys for Defendant
6 S. C. Johnson & Son, Inc.
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